

AMENDED IN SENATE JULY 27, 1998

AMENDED IN SENATE JUNE 1, 1998

AMENDED IN ASSEMBLY APRIL 14, 1998

AMENDED IN ASSEMBLY MARCH 23, 1998

AMENDED IN ASSEMBLY MARCH 9, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1730

Introduced by Assembly Member Wright

February 2, 1998

An act to amend Section 830.7 of the Penal Code, and to amend Sections ~~1808.22, 40202, and 40225~~ of ~~40202 and 40225~~ *of, and to add and repeal Section 1808.25 of*, the Vehicle Code, relating to the vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1730, as amended, R. Wright. Vehicles: residence addresses: confidentiality: penalties.

(1) Under existing law, the residence address in any record of the Department of Motor Vehicles is confidential, with specified exceptions.

This bill would add to those exceptions an independent institution of higher education that operates pursuant to a memorandum of understanding that permits a security officer of that institution to have arrest powers, as described in a specified provision of the Penal Code, if the institution

requests the address for the purpose of enforcing parking restrictions.

In addition, ~~for the bill~~, until January 1, 2002, would authorize the department to implement a pilot program to provide residence address information to an independent institution of higher education that operates pursuant to that memorandum of understanding, if the institution requests the address solely for the purpose of enforcing parking restrictions. For these purposes, the bill, among other things, would require the institution to enter into a contractual agreement with the department that, at a minimum, requires the institution to establish and maintain procedures for persons to contest parking violation notices issued by the institution and to remit a fee, as determined by the department, to cover the department's costs of providing each address to the institution. *The bill would require the department to submit a report to the Legislature containing its evaluation of the pilot program on or before January 1, 2001.*

(2) Under existing law, a processing agency is required to mail, within 15 calendar days of the issuance of a parking violation, a copy of the notice of parking violation to the registered owner.

This bill would allow for the transmission of an electronic facsimile of the notice as an alternative to the mailing.

(3) Existing law provides that the civil penalty for each equipment violation is the amount established for that violation in the Uniform Bail and Penalty Schedule except upon proof of correction, the penalty shall be reduced to \$10.

This bill would specify that an equipment violation includes failure to properly display a license plate and would allow for the \$10 reduced penalty upon proof of correction under specified conditions.

(4) The bill also would make technical changes to existing law, including the correction of an obsolete cross-reference.

(5) (a) *The bill would incorporate additional changes in Section 830.7 of the Penal Code proposed by AB 2541, to be operative only if both bills are enacted and become operative on or before January 1, 1999, and this bill is enacted last.*



(b) The bill would incorporate additional changes in Section 40225 of the Vehicle Code proposed by AB 1824, to be operative only if both bills are enacted and become operative on or before January 1, 1999, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.7 of the Penal Code is
2 amended to read:

3 830.7. The following persons are not peace officers
4 but may exercise the powers of arrest of a peace officer
5 as specified in Section 836 during the course and within
6 the scope of their employment, if they successfully
7 complete a course in the exercise of those powers
8 pursuant to Section 832:

9 (a) Persons designated by a cemetery authority
10 pursuant to Section 8325 of the Health and Safety Code.

11 (b) Persons regularly employed as security officers for
12 independent institutions of higher education, recognized
13 under subdivision (b) of Section 66010 of the Education
14 Code, if the institution has concluded a memorandum of
15 understanding, permitting the exercise of that authority,
16 with the sheriff or the chief of police within whose
17 jurisdiction the institution lies.

18 (c) Persons regularly employed as security officers for
19 health facilities, as defined in Section 1250 of the Health
20 and Safety Code, that are owned and operated by cities,
21 counties, and cities and counties, if the facility has
22 concluded a memorandum of understanding, permitting
23 the exercise of that authority, with the sheriff or the chief
24 of police within whose jurisdiction the facility lies.

25 (d) Employees or classes of employees of the
26 California Department of Forestry and Fire Protection
27 designated by the Director of Forestry and Fire
28 Protection, provided that the primary duty of the
29 employee shall be the enforcement of the law as that duty
30 is set forth in Section 4156 of the Public Resources Code.

1 (e) Persons regularly employed as inspectors,
2 supervisors, or security officers for transit districts, as
3 defined in Section 99213 of the Public Utilities Code, if the
4 district has concluded a memorandum of understanding
5 permitting the exercise of that authority, with, as
6 applicable, the sheriff, the chief of police, or the
7 Department of the California Highway Patrol within
8 whose jurisdiction the district lies. For the purposes of this
9 subdivision, the exercise of peace officer authority may
10 include the authority to remove a vehicle from a railroad
11 right-of-way as set forth in Section 22656 of the Vehicle
12 Code.

13 (f) Nonpeace officers regularly employed as county
14 parole officers pursuant to Section 3089.

15 (g) Persons appointed by the Executive Director of
16 the California Science Center pursuant to Section 4108 of
17 the Food and Agricultural Code.

18 ~~SEC. 2. Section 1808.22 of the Vehicle Code is~~
19 ~~amended to read:~~

20 ~~1808.22. Section 1808.21 does not apply to any of the~~
21 ~~following persons or entities:~~

22 ~~(a) A financial institution licensed by the state or~~
23 ~~federal government to do business in the State of~~
24 ~~California that states, under penalty of perjury, that it has~~
25 ~~obtained a written waiver of Section 1808.21 signed by the~~
26 ~~individual whose address is requested, or to providing the~~
27 ~~address of any person who has entered into an agreement~~
28 ~~held by that institution prior to July 1, 1990, so long as that~~
29 ~~agreement remains in effect.~~

30 ~~(b) An insurance company licensed to do business in~~
31 ~~California, if the company, under penalty of perjury,~~
32 ~~requests the information for the purpose of obtaining the~~
33 ~~address of another motorist or vehicle owner involved in~~
34 ~~an accident with their insured, or requests the~~
35 ~~information on an individual who has signed a written~~
36 ~~waiver of Section 1808.21 or the individuals insured under~~
37 ~~a policy if a named insured of that policy has signed a~~
38 ~~written waiver.~~

39 ~~(c) An independent institution of higher education~~
40 ~~that operates pursuant to a memorandum of~~

1 ~~understanding described in subdivision (b) of Section~~
2 ~~830.7 of the Penal Code, if the institution requests the~~
3 ~~address for the purpose of enforcing parking restrictions.~~

4 ~~For the purposes of this subdivision, the institution shall~~
5 ~~enter into a contractual agreement with the department~~
6 ~~that, at a minimum, requires the institution to do both of~~
7 ~~the following:~~

8 ~~(1) Establish and maintain procedures, to the~~
9 ~~satisfaction of the department, for persons to contest~~
10 ~~parking violation notices issued by the institution.~~

11 ~~(2) Remit a fee, as determined by the department, to~~
12 ~~cover the department's costs of providing each address to~~
13 ~~the institution.~~

14 ~~(d) (1) An attorney, if the attorney states, under~~
15 ~~penalty of perjury, that the motor vehicle or vessel~~
16 ~~registered owner or driver residential address~~
17 ~~information is necessary in order to represent his or her~~
18 ~~client in a criminal or civil action that directly involves~~
19 ~~the use of the motor vehicle or vessel that is pending, is~~
20 ~~to be filed, or is being investigated. Information~~
21 ~~requested pursuant to this subdivision is subject to all of~~
22 ~~the following:~~

23 ~~(A) The attorney shall state that the criminal or civil~~
24 ~~action that is pending, is to be filed, or is being~~
25 ~~investigated relates directly to the use of that motor~~
26 ~~vehicle or vessel.~~

27 ~~(B) The case number, if any, or the names of expected~~
28 ~~parties to the extent they are known to the attorney~~
29 ~~requesting the information, shall be listed on the request.~~

30 ~~(C) A residence address obtained from the~~
31 ~~department shall not be used for any purpose other than~~
32 ~~in furtherance of the case cited or action to be filed or~~
33 ~~which is being investigated.~~

34 ~~(D) If no action is filed within a reasonable time, the~~
35 ~~residence address information shall be destroyed.~~

36 ~~(E) No attorney shall request residence address~~
37 ~~information pursuant to this subdivision in order to sell~~
38 ~~the information to any person.~~

~~(F) Within 10 days of receipt of a request, the department shall notify every individual whose residence address has been requested pursuant to this subdivision.~~

~~(2) A knowing violation of subparagraph (A), (B), (C), (D), or (E) of paragraph (1) is a misdemeanor. A knowing violation of subparagraph (A), (B), (C), (D), or (E) of paragraph (1) in furtherance of another crime is subject to the same penalties as that other crime.~~

SEC. 1.5. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for *independent* institutions of higher education, recognized under subdivision ~~(a)~~ (b) of Section ~~94310.1~~ 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or *the* chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, ~~which~~ *that* are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or *the* chief of police within whose ~~jurisdictions~~ *jurisdiction* the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, *the* chief of police, or *the Department of the* California Highway Patrol within whose jurisdiction the district lies. For *the* purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California ~~Museum of Science and Industry Center~~ pursuant to Section 4108 of the Food and Agricultural Code.

(h) Employees of the California Department of Parks and Recreation classified as Firefighter/Security Officers and designated by the Director of the California Department of Parks and Recreation, provided that the primary duty of the employee is the protection of the state park system at Hearst San Simeon State Historical Monument, as set forth in Section 5008 of the Public Resources Code.

SEC. 2. *Section 1808.25 is added to the Vehicle Code, to read:*

1808.25. (a) The department may implement a pilot program to provide residence address information to an independent institution of higher education that has concluded a memorandum of understanding pursuant to subdivision (b) of Section 830.7 of the Penal Code, if the institution requests the address solely for the purpose of enforcing parking restrictions.

For the purposes of this subdivision, the institution shall enter into a contractual agreement with the department that, at a minimum, requires the institution to do both of the following:

1 (1) Establish and maintain procedures, to the
2 satisfaction of the department, for persons to contest
3 parking violation notices issued by the institution.

4 (2) Remit a fee, as determined by the department, to
5 cover the department's costs of providing each address to
6 the institution.

7 (b) The department shall submit a report to the
8 Legislature containing its evaluation of the pilot program
9 which shall include a recommendation as to the
10 advisability of continuing the program. The report shall
11 be submitted on or before January 1, 2001.

12 (c) The director may terminate a contract authorized
13 by subdivision (a) at any time the department
14 determines that the independent institution of higher
15 education fails to maintain adequate safeguards to ensure
16 that the operation of the program does not adversely
17 effect those individuals whose records are maintained in
18 the department's files, or if the information is used for any
19 purpose other than that specified in subdivision (a).

20 (d) This section shall remain in effect only until
21 January 1, 2002, and as of that date is repealed unless a
22 later enacted statute, which is enacted before January 1,
23 2002, deletes or extends that date.

24 SEC. 3. Section 40202 of the Vehicle Code is amended
25 to read:

26 40202. (a) If a vehicle is unattended during the time
27 of the violation, the peace officer or person authorized to
28 enforce parking laws and regulations shall securely attach
29 to the vehicle a notice of parking violation setting forth
30 the violation, including reference to the section of this
31 code or of the Public Resources Code, the local ordinance,
32 or the federal statute or regulation so violated; the date;
33 the approximate time thereof; the location where the
34 violation occurred; a statement printed on the notice
35 indicating that the date of payment is required to be
36 made not later than 21 calendar days from the date of
37 citation issuance; and the procedure for the registered
38 owner, lessee, or rentee to deposit the parking penalty or,
39 pursuant to Section 40215, contest the citation. The notice
40 of parking violation shall also set forth the vehicle license

1 number and registration expiration date if they are
2 visible, the last four digits of the vehicle identification
3 number, if that number is readable through the
4 windshield, the color of the vehicle, and, if possible, the
5 make of the vehicle. The notice of parking violation, or
6 copy thereof, shall be considered a record kept in the
7 ordinary course of business of the issuing agency and the
8 processing agency and shall be prima facie evidence of
9 the facts contained therein.

10 (b) The notice of parking violation shall be served by
11 attaching it to the vehicle either under the windshield
12 wiper or in another conspicuous place upon the vehicle
13 so as to be easily observed by the person in charge of the
14 vehicle upon the return of that person.

15 (c) Once the issuing officer has prepared the notice of
16 parking violation and has attached it to the vehicle as
17 provided in subdivisions (a) and (b), the officer shall file
18 the notice with the processing agency. Any person,
19 including the issuing officer and any member of the
20 officer's department or agency, or any peace officer who
21 alters, conceals, modifies, nullifies, or destroys, or causes
22 to be altered, concealed, modified, nullified, or destroyed
23 the face of the remaining original or any copy of a citation
24 that was retained by the officer, for any reason, before it
25 is filed with the processing agency or with a person
26 authorized to receive the deposit of the parking penalty,
27 is guilty of a misdemeanor.

28 (d) If, during the issuance of a notice of parking
29 violation, without regard to whether the vehicle was
30 initially attended or unattended, the vehicle is driven
31 away prior to attaching the notice to the vehicle, the
32 issuing officer shall file the notice with the processing
33 agency. The processing agency shall mail, within 15
34 calendar days of issuance of the notice of parking
35 violation, a copy of the notice of parking violation or
36 transmit an electronic facsimile of the notice to the
37 registered owner.

38 (e) If, within 21 days after the notice of parking
39 violation is attached to the vehicle, the issuing officer or
40 the issuing agency determines that, in the interest of

1 justice, the notice of parking violation should be canceled,
2 the issuing agency, pursuant to subdivision (a) of Section
3 40215, shall cancel the notice of parking violation or, if the
4 issuing agency has contracted with a processing agency,
5 shall notify the processing agency to cancel the notice of
6 parking violation pursuant to subdivision (a) of Section
7 40215. The reason for the cancellation shall be set forth in
8 writing.

9 If, after a copy of the notice of parking violation is
10 attached to the vehicle, the issuing officer determines
11 that there is incorrect data on the notice, including, but
12 not limited to, the date or time, the issuing officer may
13 indicate in writing, on a form attached to the original
14 notice, the necessary correction to allow for the timely
15 entry of the notice on the processing agency's data
16 system. A copy of the correction shall be mailed to the
17 registered owner of the vehicle.

18 (f) Under no circumstances shall a personal
19 relationship with any officer, public official, or law
20 enforcement agency be grounds for cancellation.

21 SEC. 4. Section 40225 of the Vehicle Code is amended
22 to read:

23 40225. (a) An equipment violation entered on the
24 notice of parking violation attached to the vehicle under
25 Section 40203 shall be processed in accordance with this
26 article. All of the violations entered on the notice of
27 parking violation shall be noticed in the notice of
28 delinquent parking violation delivered pursuant to
29 Section 40206, together with the amount of civil penalty.

30 (b) Whether or not a vehicle is in violation of any
31 regulation governing the standing or parking of a vehicle
32 but is in violation of subdivision (a) of Section 5204, a
33 person authorized to enforce parking laws and
34 regulations shall issue a written notice of parking
35 violation, setting forth the alleged violation. The violation
36 shall be processed pursuant to this section.

37 (c) The civil penalty for each equipment violation,
38 including failure to properly display a license plate, is the
39 amount established for the violation in the Uniform Bail
40 and Penalty Schedule, as adopted by the Judicial Council,

1 except that upon proof of the correction to the processing
2 agency, the penalty shall be reduced to ten dollars (\$10).
3 The reduction provided for in this subdivision involving
4 failure to properly display license plates shall only apply
5 if, at the time of the violation, valid license plates were
6 issued for that vehicle in accordance with this code. The
7 civil penalty for each violation of Section 5204 is the
8 amount established for the violation in the Uniform Bail
9 and Penalty Schedule, as adopted by the Judicial Council,
10 except that upon proof of the correction to the processing
11 agency, the penalty shall be reduced to ten dollars (\$10).

12 (d) Fifty percent of any penalty collected pursuant to
13 this section for registration or equipment violations by a
14 processing agency shall be paid to the county for
15 remittance to the State Treasurer and the remaining 50
16 percent shall be retained by the issuing agency and
17 processing agency subject to the terms of the contract
18 described in Section 40200.5.

19 (e) Subdivisions (a) and (b) do not preclude the
20 recording of a violation of subdivision (a) or (b) of
21 Section 4000 on a notice of parking violation or the
22 adjudication of that violation under the civil process set
23 forth in this article.

24 *SEC. 4.5. Section 40225 of the Vehicle Code is*
25 *amended to read:*

26 40225. (a) An equipment violation entered on the
27 notice of parking violation attached to the vehicle under
28 Section 40203 shall be processed in accordance with this
29 article. All of the violations entered on the notice of
30 parking violation shall be noticed in the notice of
31 delinquent parking violation delivered pursuant to
32 Section 40206, together with the amount of civil penalty.

33 (b) Whether or not a vehicle is in violation of any
34 regulation governing the standing or parking of a vehicle
35 but is in violation of subdivision (a) of Section 5204, a
36 person authorized to enforce parking laws and
37 regulations shall issue a written notice of parking
38 violation, setting forth the alleged violation. The violation
39 shall be processed pursuant to this section.

1 (c) The civil penalty for each equipment violation,
2 *including failure to properly display a license plate*, is the
3 amount established for the violation in the Uniform Bail
4 and Penalty Schedule, as adopted by the Judicial Council,
5 except that upon proof of the correction to the processing
6 agency, the penalty shall be reduced to ten dollars (\$10).
7 The civil penalty for each violation of Section 4000 or 5204
8 is the amount established for the violation in the Uniform
9 Bail and Penalty Schedule, as adopted by the Judicial
10 Council, *and the person shall present proof of correction*,
11 except that upon proof of the correction *indicating that*
12 *the vehicle was properly registered and the appropriate*
13 *fees paid at the time of the violation to the processing*
14 *agency, the penalty shall be reduced to ~~ten dollars (\$10)~~*
15 *twenty dollars (\$20). The reduction provided for in this*
16 *subdivision involving failure to properly display license*
17 *plates shall only apply if, at the time of the violation, valid*
18 *license plates were issued for that vehicle in accordance*
19 *with this code.*

20 (d) Fifty percent of any penalty collected pursuant to
21 this section for registration or equipment violations by a
22 processing agency shall be paid to the county for
23 remittance to the State Treasurer and the remaining 50
24 percent shall be retained by the issuing agency and
25 processing agency subject to the terms of the contract
26 described in Section 40200.5.

27 (e) Subdivisions (a) and (b) do not preclude the
28 recording of a violation of subdivision (a) or (b) of
29 Section 4000 on a notice of parking violation or the
30 adjudication of that violation under the civil process set
31 forth in this article.

32 *SEC. 5. Section 1.5 of this bill incorporates*
33 *amendments to Section 830.7 of the Penal Code proposed*
34 *by both this bill and AB 2541. It shall only become*
35 *operative if (1) both bills are enacted and become*
36 *effective on or before January 1, 1999, (2) each bill*
37 *amends Section 830.7 of the Penal Code, and (3) this bill*
38 *is enacted after AB 2541, in which case Section 1 of this bill*
39 *shall not become operative.*

1 *SEC. 6. Section 4.5 of this bill incorporates*
2 *amendments to Section 40225 of the Vehicle Code*
3 *proposed by both this bill and AB 1824. It shall only*
4 *become operative if (1) both bills are enacted and*
5 *become effective on or before January 1, 1999, (2) each*
6 *bill amends Section 40225 of the Vehicle Code, and (3)*
7 *this bill is enacted after AB 1824, in which case Section 4*
8 *of this bill shall not become operative.*

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